



UNITED STATES DEPARTMENT OF COMMERCE  
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PATENT & TRADEMARK OFFICE  
**MAILED**

JUN 1 2004

EX PARTE: HERBAGE, ET AL.  
SERIAL NO.: 10/763,789  
FILED: 01/23/04  
TITLE: STACKED PELLET FLARE ASSEMBLY AND METHODS OF MAKING AND  
USING THE SAME

**LICENSING & REVIEW**

Receipt is acknowledged of the statement filed 05/20/04 under the provisions of:

Section 152 of the Atomic Energy Act, 42 U.S.C. 2182, as amended.

X Section 305(c) of the National Aeronautics and Space Act, 42 U.S.C. 2457.

**THE STATEMENT IS INSUFFICIENT SINCE:**

It is not in the form of an oath or a declaration (as provided by 37 CFR 1.68).

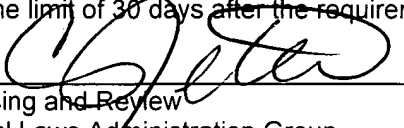
It fails to set forth the "full facts" surrounding the making and conception of the invention as required by the Act. The full facts should include whether the invention was made and conceived during working hours of an employer's, or on the inventor's own time, using his/her employer's own funds, facilities, materials and services.

In addition to setting forth the full facts concerning the circumstances under which the invention was made, a general averment in accordance with the statutory requirements was not recited setting forth the contractual relationship (if any) with either DOE and/or NASA.

X The section required the statement be executed by "applicant" and this is construed in accordance with patent statutes as meaning the person or persons who may apply for a patent. It is noted that this includes all joint inventors if the invention is joint, unless deceased, incompetent or unavailable within the meaning of 37 CFR 1.47. If a statement by someone in place of the unavailable inventor(s) is to be accepted, the same proofs, information and assignment called for by 37 CFR 1.47 (b) should be furnished, including the inventor's last known address. This has not been done.

X Other: 42 USC 2457 STATES THE "APPLICANT" MUST SUBMIT A STATEMENT.  
"APPLICANT" IS DEFINED IN 37 CFR 1.41 AS "INVENTORS". PLEASE SUBMIT  
SUPPLEMENTAL STATEMENT WITH JOHN W. DAILEY'S SIGNATURE.

This application will be reached in about thirty (30) days for consideration of the need to call it to the attention of the Commissioner for the purpose of the formally requesting a statement under said section, unless a supplemental statement is voluntarily filed in the meantime. Should it be necessary to issue a formal requirement for the statement, no provision is found for extension of the time limit of 30 days after the requirement is made.

  
Licensing and Review  
Special Laws Administration Group  
(703) 305-0241  
06/01/04

**PLEASE DIRECT ALL COMMUNICATIONS RELATING TO THIS  
MATTER TO THE ATTENTION OF LICENSING AND REVIEW**